DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/30/2010 have been fully considered but they are not persuasive.

2. With regard to claim 2, and Applicant's assertion that "the control data of Summers is not associated software and cannot suggest both the software and code or data set forth by [claim 2]" (Email of 7/30/2010), it is noted that Summers teaches both "control signals" and "informational signals" (col. 7, ll. 38-40). Summers' control signals fall well within the broadest reasonable interpretation of associated "software", and "informational signals" fall well within the broadest reasonable interpretation of "code or data".

Additionally, Summers discloses that the "informational signals" perform various claimed functions, such as controlling the content of the receiver's display, supplementing mass medium programming with receiver specific information and completing mass medium programming with receiver specific information (col. 7, ll. 8-32). Summers' "control signals" may be used to control devices external to the receiver (col. 7, ll. 40-45).

Therefore, Summers teaches the use of different types of supplemental data signals, including signals that are "software" for controlling the receiver and/or external devices as well as mere "information" signals used to control the information displayed to a particular receiver.

Claim Rejections - 35 USC § 103

3. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert (US 4,724,491) in view of Summers (US 3,848,082).

4. With regard to claim 2, Lambert (US 4,724,491) discloses a method of controlling a transmitter station including:

inputting to a computer ("computer means") (col. 1, ll. 39-44) a schedule that designates mass medium programming ("spot messages") and includes at least one of:

(a) a time to transmit said mass medium programming to a remote receiver station ("time bands" when messages are to be run)(col. 1, ll. 39-44); and

(b) a channel on which to transmit said mass medium programming to said remote receiver station ("networks" on which messages are to be run)(col. 1, ll. 39-44);

detecting the presence of a control signal at said transmitter station and passing said control signal to said computer, said control signal designating at least one of said mass medium programming (control signals specify which message is to be transmitted during a particular message transmission interval)(col. 3, ll. 3-12); and said information to be associated with said mass medium programming;

generating a signal containing said mass medium programming; and

transmitting said signal to a remote receiver station (spot messages are transmitted at the scheduled time)(col. 3, ll. 8-12).

Lambert fails to specifically disclose selecting information to be associated with said mass medium programming based on said schedule, said selected information

including software, transmitting the information to be associated with said mass medium programming along with the mass medium programming at the scheduled time, or selecting at least one of code and data effective to perform one of (a) control said remote receiver station, (b) server as a source of receiver specific data to supplement said mass medium programming, and (c) server as a source of receiver specific data to complete said mass medium programming.

Summers (US 3,848,082) discloses a similar system for transmitting television programs to receiver stations (Abstract). Summers teaches selecting information to be associated with mass medium programming (supplemental data is selected and added to a video signal)(col. 1, ll. 35-41), including software (supplemental data can be control signals to operate co-located devices)(col. 7, ll. 38-45 and at least one of code and data effective to perform one of (a) control said remote receiver station (supplemental data may instruct the receiver to display or print a coupon)(col. 7, ll. 8-16), (b) serve as a source of receiver specific data to supplement said mass medium programming (the supplemental data supplements the medium programming, since it is included in the mass medium programming signal, and may be specific to particular receivers set up to listen for them (e.g., fire signals))(col. 1, ll. 37-41; col. 7, ll. 21-32), and (c) serve as a source of receiver specific data to complete said mass medium programming (supplemental data may be provided to complete a mass medium programming signal, such as an advertisement by providing a coupon for display responsive to user input)(col. 7, ll. 8-17) and transmitting the information along with the mass media programming when the mass medium programming is scheduled for transmission

(supplemental data is combined with the video signal to form a modified video signal)(col. 3, ll. 53-58). This would have been an advantageous addition to the system disclosed by Lambert since it would have allowed supplemental data to be added to the transmitted messages, such as coupons or other features of interest to viewers (Summers, col. 7, ll. 10-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select information to be associated with mass medium programming and incorporate it into the transmission of the programming to allow supplemental information to be provided to users as a part of the same transmission.

5. Claim 12 is rejected under the same rationale as claims 2, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are explicitly or inherently taught by the above cited art.

Conclusion

6. The following prior art is considered pertinent to applicant's disclosure and current claims:

a. Greenberg (US 4,547,804) teaches transmission of mass medium programming and verifying that it was transmitted in accordance with a schedule (col. 3, ll. 1-29).

b. Lambert (US 4,381,522) teaches transmission of mass medium programming in accordance with a schedule formed in part by user requested scheduling of programming (col. 2, l. 54 to col. 3, l. 1).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON STRANGE whose telephone number is (571)272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron Strange/
Primary Examiner, Art Unit 2448